

FILED
9/9/22
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U.S. BANKRUPTCY
COURT - WDPA

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:) **Bankruptcy No.** 22-20324-GLT
David A. Golupski and)
Maureen Y. Golupski,)
Debtors,)
David A. Golupski and)
Maureen Y. Golupski,)
Movants,)
vs.)
PNC Bank, National Association; Newtek)
Small Business Finance, LLC;)
The Office of the Lee County Tax Collector;)
Florida Department of Revenue,)
Respondents.) **Document No.**

**ORDER CONFIRMING CHAPTER 11 SALE OF PROPERTY
FREE AND CLEAR AND DIVESTED OF LIENS, CLAIMS AND ENCUMBRANCES**

AND NOW, this 9thday of September, 2022, on consideration of the **Debtors'** Motion to Sell 8205 Woodbridge Pointe Drive, Fort Myers, Florida 33912 Free and Clear of All Liens and Encumbrances and Claims to Thomas J. Lewis and Georgett A. Lewis, 19277 Birchdale Point Road, Brainerd, MN 56401 for \$425,000.00, after a Zoom Video Conference Hearing held, the Court finds:

(1) That service of the Notice of Hearing and Order setting hearing on said Motion for Sale of real property free and divested of the interest of the co-owner, the mortgages, liens and judgments of the above-named Respondents, was affected on the following secured creditors whose liens are recited in said Motion for Sale, viz:

DATE OF SERVICE

(Date of Each service)

August 10, 2022

NAME OF LIENOR AND SECURITY

(Name and address of each including description of collateral)

PNC Bank, N.A.
c/o Brian C. Nicholas, Esquire
KML Law Group, P.C.
701 Market Street, Suite 5000
Philadelphia, PA 19106
bnicholas@kmllawgroup.com
First Mortgage Lien

August 10, 2022

PNC Bank, N.A.
ATTN: Bankruptcy Department
3232 Newmark Drive
Miamisburg, OH 45342
bankruptcy.claims@pnc.com
First Mortgage Lien

August 10, 2022

Newtek Small Business Finance, LLC
c/o John J. Winter, Esquire
Chartwell Law
970 Rittenhouse Road, Suite 300
Eagleville, PA 19403
jwinter@chartwelllaw.com
Second Mortgage lien

August 10, 2022

The Office of the Lee County Tax
Collector
2480 Thompson Street
Ft Meyers FL 33901
Real Estate Taxes

August 10, 2022

Florida Department of Revenue
5050 W Tennessee Street
Tallahassee FL 32399-0112
Attention: MS 3-2000
Real Estate Taxes

August 10, 2022

James S. Fellin, Esquire
Subchapter V Trustee
The Nottingham Group, LLC
One Gateway Center, Suite 700
420 Ft. Duquesne Blvd,
Pittsburgh PA 15222
ifellin@nottinghamgroup.com
Interested Party – Subchapter V Trustee

(2) That sufficient general notice of said hearing and sale, together with the Confirmation hearing thereon, was given to the creditors and parties in interest by the moving party as shown by the certificate of service duly filed and that the named parties were duly served with the Motion to sell the fee simple interest. .

(3) That the said hearing was duly advertised on the Court's website pursuant to *W.PA LBR 6004-1(c)* on August 17, 2022, in The News-Press on August 19, 2022, in the Lee County Newsletter on August 19, 2022, and August 26, 2022, and on The Florida Bar's website from August 18, 2022, through August 26, 2022, as shown by the Proof of Publications duly filed. There were no charges to advertise in the Lee County Newsletter.

(4) That at the sale hearing the highest/best offer received was that of the above Purchaser(s) and no objections to the sale were made which would result in cancellation of said sale.

(5) That the price of **\$425,000.00** offered by Thomas J. Lewis and Georgett A. Lewis was a full and fair price for the property in question for the interest of the Debtor and the interest of the estate.

(6) That the Purchaser(s) has acted in good faith with respect to the within sale in accordance with In re: Abbotts Dairies of Pennsylvania, Inc., 788 F2d. 143 (3d Cir. 1986).

Now therefore, ***IT IS ORDERED, ADJUDGED AND DECREED*** that the sale by Special Warranty deed of the real property described as 8205 Woodbridge Pointe Drive, Fort Myers, Florida 33912 is hereby **CONFIRMED** to Thomas J. Lewis and Georgett A. Lewis, 19277 Birchdale Point Road, Brainerd, MN 56401 for \$425,000.00, free and divested of the above recited liens and claims, and, that the Movants are authorized to make, execute and deliver to the Purchaser(s) above named the necessary deed and/or other documents required to transfer title to the property purchased upon compliance with the terms of sale.

IT IS FURTHER ORDERED that the above recited liens and claims, be, and they hereby are, transferred to the proceeds of sale, if and to the extent they may be determined to be valid liens against the sold property, that the within decreed sale shall be free, clear and divested of said liens and claims.

IT IS FURTHER ORDERED that the above sale is being conducted in conjunction with the Debtor's Chapter 11 subchapter V Plan and it is entitled to an exemption from any state or local transfer taxes pursuant to 11 U.S.C §1141.

FURTHER ORDERED, that the following expenses/costs shall immediately be paid at the time of closing. ***Failure of the Closing Agent to timely make and forward the disbursements required by this Order*** will subject the closing agent to monetary sanctions, including among other things, a fine or imposition of damages, after notice and hearing, for failure to comply with the above terms of this Order.

- (1) The following lien(s)/claim(s) from the gross proceeds:
- (2) Delinquent real estate taxes; if any; This charge shall be assessed against the sale proceeds.
 - a. The allowed payoff of the first mortgage in favor of PNC Bank, in the original amount of \$148,000.00 and was recorded in the Office of the Clerk of Circuit Court of Lee County, Florida on May 3, 2010, at Mortgage Book as Instrument No. 2010000111110. This is a valid first lien on the 8205 Woodbridge Property. The balance is subject to

verification and the Debtor reserves its right to challenge the claimed amount due.

- b. The payoff of the second mortgage in favor of Newtek Small Business Finance, LLC in the original amount of \$4,027,000.00 and was recorded in the Office of the Clerk of Circuit Court of Lee County, Florida on August 8, 2017, at Mortgage Book as Instrument No. 2017000169129. Pursuant to the mortgage, Newtek asserts that the maximum amount that the mortgage is intended and is **LIMITED** to secure is \$285,000.00. The balance is subject to the pending dispute raised in the adversary and the Debtor reserves its right to challenge the claimed amount due.
- (3) On July 28, 2022, the Debtors' filed their *Motion to Retain* James R. Higgins and SWFL Real Estate Brokers as a realtor for this transaction at the behest of Newtek. The Debtors withdrew the Motion. To the extent he is entitled to any commission, James R. Higgins must file a Motion within 30 days of this Order.
- (4) Current real estate taxes, pro-rated to the date of closing; This charge shall be assessed against the sale proceeds.
- (5) Current homeowner's association fees, pro-rated to the date of closing; This charge shall be assessed against the sale proceeds.
- (6) The costs of The News-Press, the local newspaper advertising in Lee County, Florida, in the amount of \$25.12; reimbursed to Calaiaro Valencik for their Court approved legal fees and for by the Court for all costs and advertising expenses related to this sale. This charge shall be assessed against the sale proceeds.
- (7) The costs advertising on The Florida Bar's website in the amount of \$95.00; reimbursed to Calaiaro Valencik for their approved by the Court for legal fees and for all costs and advertising expenses related to this sale. This charge shall be assessed against the gross sale proceeds.
- (8) The "net proceeds" from the closing as identified on the HUD-1 to Calaiaro Valencik to be held in escrow pending further Order of Court.
- (9) Notwithstanding anything in the sale agreement to the contrary, any disputes arising between the parties will be resolved in the bankruptcy court.
- (10) If there is a dispute at time of closing, the settlement officer may pay the undisputed claims at closing to in the order of their priority, and then escrow the balance with Calaiaro Valencik and that amount will be deposited into their IOLTA account until further order of this court.

- (11) This Court reserves the jurisdiction over the sale and the proceeds until they are distributed.

FURTHER ORDERED that:

- (1) Closing shall occur within thirty (30) days of this Order and within five (5) days following closing, the Movant shall file a report of sale.
- (2) This Sale Confirmation Order survives any dismissal or conversion of the within case; and,
- (3) Within five (5) days of the date of this Order, the Movant shall serve a copy of the within Order on each Respondent (i.e., each party against whom relief is sought) and its attorney of record, if any, upon any attorney or party who answered the motion or appeared at the hearing, the attorney for the debtor, the Purchaser, and the attorney for the Purchase, if any, and file a certificate of service.

IT IS FURTHER ORDERED THAT the Debtor will file a report of sale within 15 days of the closing. If the original bidder does not close the sale within the time allowed by this sale order, the Debtor will file a notice and status court with this court.

Dated: 9/9/22



Honorable Gregory L. Teddonio
United States Bankruptcy Judge

In re:
David A. Golupski
Maureen Y. Golupski
Debtors

Case No. 22-20324-GLT
Chapter 11

District/off: 0315-2
Date Rcvd: Sep 09, 2022

User: auto
Form ID: pdf900

Page 1 of 2
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 11, 2022:

Recip ID **Recipient Name and Address**
db/jdb + David A. Golupski, Maureen Y. Golupski, 5101 Carnoustie Drive, Presto, PA 15142-1507

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 11, 2022

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 9, 2022 at the address(es) listed below:

Name	Email Address
Beverly Weiss Manne	on behalf of Creditor Advance Business Capital LLC dba Triumph Business Capital bmanne@tuckerlaw.com, bewmann@aol.com,jrusnack@tuckerlaw.com
Brian Nicholas	on behalf of Creditor PNC Bank National Association bnicholas@kmllawgroup.com
Courtney Helbling	on behalf of Creditor Advance Business Capital LLC dba Triumph Business Capital chelbling@tuckerlaw.com
Donald R. Calaiaro	on behalf of Joint Debtor Maureen Y. Golupski dcalaiaro@c-vlaw.com kmosur@c-vlaw.com;ssimmons@c-vlaw.com:jadam@c-vlaw.com;apratt@c-vlaw.com;mpeduto@c-vlaw.com;mlocke@c-vlaw.com
Donald R. Calaiaro	

District/off: 0315-2

Date Rcvd: Sep 09, 2022

User: auto

Form ID: pdf900

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Total Noticed: 1

on behalf of Plaintiff David A. Golupski dcalaiaro@c-vlaw.com
kmosur@c-vlaw.com;ssimmons@c-vlaw.com;jadam@c-vlaw.com;apratt@c-vlaw.com;mpeduto@c-vlaw.com;mlocke@c-vlaw.c
om

Donald R. Calaiaro

on behalf of Plaintiff Maureen Y. Golupski dcalaiaro@c-vlaw.com
kmosur@c-vlaw.com;ssimmons@c-vlaw.com;jadam@c-vlaw.com;apratt@c-vlaw.com;mpeduto@c-vlaw.com;mlocke@c-vlaw.c
om

Donald R. Calaiaro

on behalf of Debtor David A. Golupski dcalaiaro@c-vlaw.com
kmosur@c-vlaw.com;ssimmons@c-vlaw.com;jadam@c-vlaw.com;apratt@c-vlaw.com;mpeduto@c-vlaw.com;mlocke@c-vlaw.c
om

James S. Fellin

jfellin@nottinghamgroup.com

James S. Fellin

on behalf of Trustee James S. Fellin jfellin@nottinghamgroup.com

Jeffrey Hunt

on behalf of Creditor Peoples Natural Gas Company LLC ecfpeoples@grblaw.com PNGbankruptcy@peoples-gas.com

Jeffrey R. Hunt

on behalf of Creditor Chartiers Valley School District jhunt@grblaw.com

Jeffrey R. Hunt

on behalf of Creditor County of Allegheny jhunt@grblaw.com

Jill Locnikar

on behalf of Creditor United States of America Department of the Treasury Internal Revenue Service jill.locnikar@usdoj.gov,
patricia.fitzgerald@usdoj.gov;caseview.ecf@usdoj.gov;kassi.horton@usdoj.gov

Jodi Hause

on behalf of U.S. Trustee Office of the United States Trustee jodi.hause@usdoj.gov
David.A.Berry@usdoj.GOV;Steven.W.Albright@usdoj.GOV

John J. Winter

on behalf of Creditor Newtek Small Business Finance LLC jwinter@chartwelllaw.com

John J. Winter

on behalf of Defendant Newtek Small Business Finance LLC jwinter@chartwelllaw.com

Keri P. Ebeck

on behalf of Creditor Duquesne Light Company kebeck@bersteinlaw.com jbluemle@bersteinlaw.com

Office of the United States Trustee

ustpregion03.pi.ecf@usdoj.gov

TOTAL: 18